

EXHIBIT 16

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
Sherman Division

ED BUTOWSKY, in his Individual
And Professional Capacities

Plaintiff,

V.

DAVID FOLKENFLIK
et al

Defendants.

Case No. 4:18-cv-00442-ALM

PLAINTIFF’S SUPPLEMENTAL RESPONSES
TO DEFENDANTS’ FIRST DISCOVERY REQUESTS

Plaintiff, Ed Butowsky (“Plaintiff”), by counsel, pursuant to Rules 26(e) and 36 of the Federal Rules of Civil Procedure (the “Rules”) and the Federal Rules of Evidence (“FRE”), hereby serves the following Supplemental Responses to defendants, David Folkenflik, National Public Radio, Inc., Edith Chapin, Leslie Cook and Pallavi Gogoi (collectively, the “Defendants”) request for production of documents dated July 5, 2019 (hereinafter, the “Discovery Requests”).

Plaintiff restates and incorporates herein by reference his prior objections to the Discovery Requests, and supplements as follows:

Supplemental Responses to Request for Production of Documents

Responding to each numbered Request, Plaintiff states as follows:

REQUEST FOR PRODUCTION NO. 7:

All documents, including correspondence, emails, video and audio recordings, voicemail, and text messages, referenced in the Wheeler Complaint.

RESPONSE: These documents are in the possession of Wigdor and Wheeler. Plaintiff has subpoenaed documents from Wigdor, and will produce all documents produced by Wigdor on receipt.

SUPPLEMENTAL RESPONSE: All documents in Plaintiff's possession will be produced.

REQUEST FOR PRODUCTION NO. 13:

All documents, including correspondence, emails, video and audio recordings, voicemail, and text messages, constituting or reflecting communications between You on the one hand, and any former or current member of the Trump White House Cabinet or their current or former employees on the other.

RESPONSE: Objection – overbroad and unreasonable as to time frame and subject matter.

Subject to the foregoing objections, Plaintiff will produce any and all documents that constitute or reflect communications between Plaintiff and any former or current member of the Trump White House Cabinet and their current or former employees between January 1, 2017 and August 1, 2017.

SUPPLEMENTAL RESPONSE: Objection – overbroad and unreasonable as to time frame and subject matter.

Subject to the foregoing objections, Plaintiff will produce any and all documents that constitute or reflect communications between Plaintiff and any former or current member of the Trump White House Cabinet and their current or former employees between July 10, 2016 and June 21, 2018.

REQUEST FOR PRODUCTION NO. 21:

All documents, correspondence, emails, video and audio recordings, voicemail, and text messages, constituting or reflecting communications between You on the one hand, and Fox News or FOXNews.com, including any of their officers, employees, agents, representatives, attorneys or any other individual or entity presently or formerly acting on their behalf, regarding actual or potential on-air appearances by You on Fox News.

RESPONSE: Objection – relevance; overbroad as to time frame and subject matter.

SUPPLEMENTAL RESPONSE: Objection – relevance; overbroad as to time frame and subject matter.

Subject to the foregoing objections, Plaintiff will produce any and all responsive documents in his possession relating to the time July 10, 2016 and June 21, 2018. Plaintiff will also produce all documents obtained from Fox in response to Plaintiff's subpoena to Fox.

REQUEST FOR PRODUCTION NO. 29:

All social media posts, including but not limited to posts on Facebook, Twitter, Instagram, Snapchat, TikTok, Vimeo, YouTube, Reddit, LinkedIn, Pinterest, and Tumblr, discussing or referring to the death of Seth Rich.

RESPONSE: Objection – overbroad unduly burdensome. *James Madison Project v. C.I.A.*, 2009 WL 2777961, at *4 (E.D. Va. 2009) (“a request for ‘all documents ‘relating to’ a subject is usually subject to criticism as overbroad since life, like law, is a ‘seamless web,’ and all documents ‘relate’ to others in some remote fashion.’ ... Such a request ‘unfairly places the onus of non-production on the recipient of the request and not where it belongs – upon the person who drafted such a sloppy request.” (quoting *Mass. v. U.S. Dep’t of Health & Human Servs.*, 727 F. Supp. 35, 36 n. 2 (D. Mass. 1989)); *id.* *Big Voices Media, LLC. v. Wendler*, 2012 WL 6021443, at *2 (M.D. Fla. 2012) (concluding that interrogatories that seek particulars regarding “any and all communications,” including oral communications, are unnecessary and excessively burdensome in part because the party propounding the interrogatories can obtain the information by depositions or document requests); *High Point SARL v. Sprint Nextel Corp.*, 2011 WL 4036424, at *18 (D. Kan. 2011) (“This Court has found interrogatories that ask a party to identify ‘each and every fact’ or ‘all facts’ supporting its allegations to be overly broad and unduly burdensome.”); *PIC Grp., Inc. v. Landcoast Insulation, Inc.*, 2010 WL 4791710, at *1-8 (S.D. Miss. 2010) (denying motion to compel response to interrogatory requesting responding party to identify each and every oral communication because it is unreasonably and unduly burdensome and the least efficient way to obtain such information); *Allianz Ins. Co. v. Surface Specialties, Inc.*, 2005 WL 44534, at *8 (D.

Kan. 2005) (“Interrogatories should not require the answering party to provide a narrative account of its case.”).

There is no way for Plaintiff to respond. This request is simply way to broad.

SUPPLEMENTAL RESPONSE: Objection – overbroad and unduly burdensome; relevance.

Plaintiff does not have access to “all social media posts ... discussing or referring to the death of Seth Rich”. Plaintiff has done a search of Twitter, YouTube, Reddit and Tumblr using the search words “death” and “Seth Rich”. The following results were obtained:

<https://twitter.com/search?q=death%20Seth%20Rich&src=typd;>

https://www.youtube.com/results?search_query=death+seth+rich

<https://www.reddit.com/search/?q=death+Seth+Rich>

<https://www.tumblr.com/search/Seth+Rich>

A search of Plaintiff’s Facebook returned no posts:

https://www.facebook.com/pg/ebutowskypub/posts/?ref=page_internal

Reservation of Rights

Plaintiff reserves the right to amend and/or supplement his Supplemental Responses to Defendants’ Discovery Requests upon review of the responsive documents and upon receipt of responsive documents from Defendants and third-parties.

DATED: October 23, 2019

ED BUTOWSKY,
In his Individual and Professional Capacities

By: /s/ Steven S. Biss

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Counsel for the Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2019 a copy of the foregoing was emailed in PDF to counsel for the Defendants:

Laura.Prather@haynesboone.com;

Thomas.Williams@haynesboone.com.

By: /s/ Steven S. Biss

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